P12

Previous references.

File No. 287
of 96

1904

(Municipal)

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 to 4

PART B. FOR August 1904

SUBJECT

Papers re Muthya Annaya Chas Bde
City Municipality, Bangalore

		FILE No. M. 287 of 1896-97
		Papers re Muthya Annayachar versus Bangalore City Municipality
	1	From the President, Bangalore City, No. 280, dated 27th May 1904. Submits for orders a copy of the Bangalore Principal Munsiff's judgment in suit No. 1900 of 1900-01, lodged by Muthya Annayachar against the City Municipality for damages.
	2	From the Secretary, Department of Public Works, No. 4359—L. F 287-96, dated 14th June 1904. Forwards Serial No. 1 (in original) with enclosures for opinion.
	3	From the Secretary, Department of Public Works, No. 4375, dated 26th July 1904. States that the whole cost amounting to Rs. 263-1-11, which was awarded by the Munsiff to the plaintiff, has been remitted to the Munsiff's Court and forwards a copy of the Eastern Circle Superintending Engineer's letter explaining the action taken to divert the old Kalyani's drainage and stating that he concurs with Mr Whiteley that, until the main drain is fully completed, there may be occasion for complaints, etc.
G. R. S. 5	4	From the Secretary, General and Revenue Department, No. 1306—L. F 287-96, dated 13th August 1904. Requests the Chief Engineer to put in hand t' [illegible]rk of completing the main drain [illegible]

Office of the Government of H H. the Maharaja of Mysore General and R. enue Secretariat

File No (if any)

Directions.

No , date and purport of receipts to be entered in red, and office note in black ink in order of dates —To be written inside the line of margin.

Office Note.

Local Boards Branch.

Subject :—

Letter No 280 dated the 27th May 06 from the President of the Municipal Commission Bangalore City submitting for orders a copy of the Bangalore Principal Munsiff's Judgment in suit No 900 of 1900- of Sreetya Ananaya Char Kanara Municipality

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Submitted for orders

The City municipality were sued by one Ahmed Khan of Bangalore for damages done to his property owing to the defective drainage of the locality during the heavy rains in February 1901 and the Munsiff of Bangalore awarded Rs 200 as damages with costs

2 The President forwards a copy of the Munsiff's judgment and requests orders to the amount

of Rs 200 for upkeep being debited to the P. W. D.

3 The Municipality finds that both the Provincial P. W. D. and the Municipality were negligent in as much as neither of them ever gave a moment's thought as to how any extra water accumulating on the Kalyan side had to be drained off till some time in March 1901 when the havoc done by the rains in July 1901 compelled them to be alive to the real situation.

4 Two of the Advocates on the Board opined that there was not a fair case for appeal that dual control (Provincial P. W. D. Provincial Sanitary Dept and Plague Dept working within Municipal limits) accounts for the want of responsibility and suggested a reference to Court for payment of the amount being forced from P. W. D.

Orig 30/5/04 2015

As the cost is proposed to be debited to the D P W orders are solicited as to whether the papers may be forwarded to the Secretary D. P W. for favour of opinion.

A-S de 4/6/04

4/6/04

4/6/04

Scaffold 7/6

The Chief Engineer reports in reply that the whole cost amounting to Rs 263-1-11 has been remitted to the Municipal Court and agrees with Mr. Whiteley that it is a pressing necessity to complete the work of widening the main drain to avoid the locality being further inundated & adds that his estimate for the work will be submitted when received

Letter No 4375 26th July 1904

Submitted for orders as to whether this work may be ordered to be carried out by the P. W. Dept: out of the lakh of rupees ~~kept apart~~ for improvement of the Bangalore City Municipality.

This year

Malang
30/7

Submitted with draft for reply
J Rieu
2/8/04

256
5.8.04 Lay before the Hon'ble Council

4.8.1904

Draft approved

Signed submitted to the Hon'ble Member
5/8/1904

5.8.1904 291/6.8.04

a copy of the Chief Engineers letter may be communicated to the Presidency with reply to his letter No 280 of 27/7/04 and whether

The Supdg Engr in his letter of 23/7/04 says Rs 2 000 /- has been allotted for the drainage of the City Proper. This I believe is out of the Lakh -ll

SUPDG. ENGG. OFFICE
Recd. No. 3227
29 JUN 1904
MYSORE, P W D
EASTERN CIRCLE.

SECL. MISC
Recd. No. 3226
15 JUN 1904
MYSORE P. W. D.

3201
2 JUL 1904
MYSORE, P W D
EASTERN CIRCLE

SECRETARIAT
Recd No.
25 JUN 04
Mysore P. W. D.

OFFICE OF THE MUNICIPAL COMMISSIONER,

City Bangalore, 27th MAY 1904 190

From

THE PRESIDENT,
Municpal Commmnon,
Bangalore City.

To

The Secretary to the Government of
His Highness the Maharaja of Mysore,
General and Revenue Departments,
Bangalore.

Sir,

I have the honor to submit herewith for information and orders of Government Copy of the Bangalore -- Principal Munsiff's judgment in Suit No. 1900 of 1900-1901- Muthya Ammaya Char Versus Municipality- with the opinion of two Commissioners of the legal profession - thereon. Annaya Char sued the Municipality for damages amounting to Rs300/ for the alleged loss of grain and — other property in his house in the Gundopanthana street caused by the flow of drain water into the house during a heavy shower on the night of the 21st February 1901. The Munsiff found the Board accountable for the alleged loss in that they neglected to see proper drains were built to carry off storm water and decreed in favor of the Plaintiff awarding him Rs200/ damages with costs. But from the judgment it will be seen that the Municipality was not primarily responsible for the flow of - storm water into the houses at Siddicutta.

Upto the year 1900, all the rain water collected on the open space opposite to the Market used to find its place into the pond 'Kalyani' which then existed at that place. In that year the Public Works Department closed the pond without reference to the Municipality

and

2

and made no provision to drain off the storm water — that used to collect in that locality and which- — formerly flowed into the pond.

The result was that ever since the closing of the said pond all the rain water began to flow down the streets — of Siddicutta and swell the drains there. The rain on — the night of the 21st February 1901 referred to above - having been unusually heavy, water overflowed the drains and entered such of the houses which were lower than the road level. The Plaintiff's house was one of such houses.

As the Public Works Department is thus solely responsible for the mishap complained of by Annaya Char , it seems but fair that the compensation awarded to him by the Court should be met by that Department. And I request that, under the circumstances represented, you would be so good as to - obtain the orders of Government in view to the amount of — Rs200/ plus Court costs payable to Annaya Char being debited to the Public Works Department.

I have the honor to be

Sir,

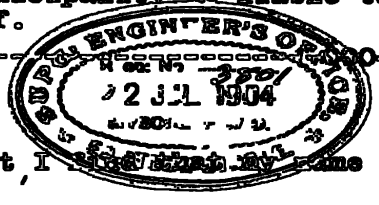
Your Most Obedient Servant,

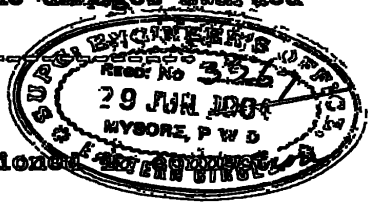
A Nagarkar

President.

WSE

Opinions of Messrs. D.Venkataramayya and B.V. Ramaswami Chetty, Advocates and Municipal Commissioners as regards the decree passed by the Principal Munsiff of Bangalore in suit No. 1900 of 1900-1901 -Muthya Annaya Char Vs. Municipality -ordering that the Municipality is liable to pay the damages awarded to the Plaintiff. 3





In the Judgment, I find that my name is mentioned with the opinion asked but I do not find my opinion at all. Why has it been withheld?. The language of the Munsiff as against the Municipality may be left out of consideration. The duality of control(more than two-because there were Provincial D.P.W., Provincial Sanitary Dept , Plague Dept, as a matter of fact working within municipal limits without consulting the Board) amounts for want or responsibility . I think that this is not a fit case for appeal. The whole records may be submitted to Govt with a request that either the whole or a major portion of the amount may be ordered to be paid by the Provincial D.P.W.

SD/. D.Venkataramayya,,
Munl: Commissioner

I agree with my friend . The judgment is strong. It is based on hard facts found against the Board. In my opinion, it is difficult to shake it.

SD/. B.V.Ramaswami Chetty
Munl: Commissioner.

Copies

A.L.Nagarkar
PRESIDENT, MUNICIPAL COMMISSION.
BANGALORE CITY.

kgg

Sh 2 / L 265-7

Ok'd
L 2566

Ag

To W. Jno Hutchins Esq Mayor
Leeds. O h. A

Has the honour to forward herewith for favour of opinion a letter (in original) No 280 dated the 27th May '04 from and its enclosure from the President of the Municipal Commissioner, Bangalore City, in regard to the recovery of damages for the results of a visit launched by one Annaya Chetty against the Municipality in the Principal Munsiff's Court at Bangalore

By Order

JB
11/6/04
for Secy

4859
A. F. 287-96 14/6/04

Ans. the original letter and file.

Send
20/6/04

8/6 [illegible] 9/6

Que 26/7

IRA Sn 27/7

K-R II

6267

6 2 523 August 190

From

The Chief Engineer of Mysore

To

The Secretary to Government

General and Revenue Departments

Dated Bangalore 26-7-1904

Despatched

Received

General No 5975

No

Enclosure No

Forwarding copy of Eastern Circle Superintending Engineer's No 4108 of the 23rd instant, explaining the action taken to divert the old Kalyana drainage and stating that he concurs with Mr Whiteley that until the main drain is fully completed there may be occasion for complaints &d

Urgent Drawing no 624.

Mysore public Works Depart
Central Office,

No. 4375-81/24-5/16 Dated Bangalore 26th July

From,

W Mc Hutchin Esquire, M.I C.E.
Chief Engineer of Mysore.

To,

B V.Venkatavaradaiengar Esquire,
Offg Secretary to the Government
of H H the Maharajah of Mysore,
General and Revenue Departm

Sir,

With reference to your No 4859/L F.287-96 of the 14th forwarding for opinion letter No 280 of the 27th May last, fr the president of the Municipal Commission, Bangalore City, stat + at for reasons adduced therein, this Department is solely res -ponsible for the suit brought against the Municipality by -yachar, I have the honor to forward the enclosed copy of East Circle, Superintending Engineer's No 4108 of the 23rd instant, (with its enclosures) explaining the action taken to divert th old Kalyani drainage and the circumstances under which the pro- -posals of Mr Whiteley for completing the main drain were post- -poned for consideration I concur with Mr Whiteley that until the main drain is fully completed there may be occasion for complaints

II The necessary precautions to divert the storm water from damaging the houses in Siddikutta have been taken by this Depa -rent The compensation claimed together with the court costs, amounting to Rs 263-1-11, has been remitted to the Munsiff's Court

III The estimate for completing the main drain said to have been prepared by the Superintending Engineer in his docket under reference, will be submitted to Government for orders when recei

IV The enclosures are herewith returned

I have the honor to be,
Sir,
Your most obedient servant

W

Engineer

Letter no. 1530 dt 15-12-03 from the President, Municipal Commission, Bangalore City to the Superintendent, Eastern Circle

I have the honor to state that the widening of a portion of the main drain which was lately carried out had a satisfactory effect on the locality concerned especially during the recent rains, which, but for enlarging the capacity of the drain would have inundated the Cubbon-cutta, endangering life and property. I request to be kindly informed if with such good results, it would be necessary in the present straitened condition of municipal finance to find funds for widening the drain in the remaining parts.

No 6907 dt 31-12-03.

Copy forwarded to the Asst Supt Sanitary Range, for expression of his views on this. It would be agreed with that what Range officer has already reported.

Sd/ J J Whiteley
Supdg Engr. C. Circle

Docket-xr 12 dy 5-1-04 from the Chief Engr, Cauvery Power, Bangalore & the Supdg Engr, Eastern circle

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Supdg Engrs no 6907 dy 31-12-03 forwarding for opinion, copy of letter n 1550 dy 15-12-03 from the President of the Bangalore City Municipality regarding the necessity or otherwise for widening the main dam in the city below the portion widened last year.

Have the honor to report that there is no doubt that the widening of the dam carried out already has to a large extent minimised the inundation of the surrounding locality but the dam does still overflow, though not to the same extent as before it was widened, and it is to prevent this that the undersigned reported that the widening of the dam further on was necessary & submitted estimate for the work. The water level during heavy rains was 2 feet above the top of the side walls of the dam & portions of the adjoining streets were under water, but it was evidently only for a short time that

causing no damage, and if there be no objection such overflows the work lower down can be post-poned till funds can conveniently be found for it.

No. 146 of 8-1-04.

Asst the Lower B forward copy of the above to the President, Municipal Commissioners, Bangalore City, with reference to his No. 1550 of 15/12 returned, for information

2. Such heavy rain as fell last year may not occur for some time & therefore undersigned thinks that further widening may be postponed for the present until funds can be more conveniently allotted

(Sd) J. Whiteley
Supdg Engr. E. Circle

Docket No. 3758/559 of 22-7-04 from the Exec. Engr. Bangalore Dn., to the Supdg Engineer, Eastern Circle

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Supdg Engr's no 3687 of 2-7-04 forwarding for report - copy of Chief Engineer's no 442 of 26-6-04 with its enclosures about whether the Drainage which formerly

entered the "Kalyan but since it being dried is now diverted to the foul trench by deep stone culverts is effectual in preventing floods damaging houses in "Lodr-
-kutta" &c

Has the honour to report that the part of the city lying to North West of the fort wall which drained into the Kalyan is now occupied by the Victoria Hospital and its Compound During the months of September October and November 1900, the Kalyan was filled in without any arrangement for diverting the floods to the more favourable parts In February 1901, heavy storm having occurred in the locality, it was stated that the floods freely entered the streets of "Lodrkutta" and headed up the main drain which has been running full & thus damaged the low houses on either side of the main drain. A propel was set up to divert the old Kalyan drainage by an underground tunnel into the main drain at its lower reaches and thus prevent the streets of Siddikutta being flooded over

the capacity of the main drain being too small to convey away its own drainage it was thought that, pending the elaboration of the drainage scheme for the city, which was then & is still under contemplation, some temporary arrangement should be made to divert the drainage into the Dorf ditch & the East of the North gate This was effected in June 1901 by constructing an earthen channel and culverts where roads cross close to the North East compound wall of the Victoria Hospital This work, so far, has been effectual in diverting the floods to the Dorf ditch, but when the channel was inspected this morning was found silted up 1 to 2 feet The President of the City Municipality happening to pass by at the time of inspection his attention was invited to the State of the Channel which he promised to put in full working order

II The damages to the houses in "Siddikatta" which adjoin the main drain are to a very great extent due to the over-flooding of the main drain

from its own drainage & to the narrower section in its lower reaches Part of this drain passing through this low lying tract of the City (Calcutta) was widened recently. The heading up of the water in the drain in Calcutta and inconveniencing the house people in its neighbourhood will only be avoided by continuing the enlargement of the drain at its lower reaches and at the outfall

III After ascertaining from the Immoveff, the court costs to be paid, a sum of Rs 268-1-11 (Rs 200 + Rs 63-1-11 court costs) has, this day, been remitted to the Immoveff's Court

IV The following original documents received with reference under reply are returned

(1) Judgment (2) City Municipal Presidents No 280 of 27-5-04
(1) Opinion of the Municipal Commissioners

No 4108 D 23-7-04

Has the honour to forward copy of the above to the Chief Engineer

of Mysore, with reference to his No. 442 of 26-6-04, with the enclosures herewith returned.

II It is probable that until the main drain is fully completed there will arise occasion for complaint.

III Since the damages of February 1901 occurred, however, the upper portions of the main drain, in fact those portions which require more urgent attention, have been widened & the effect has been marked, so much so that when undersigned proposed the completion, to the end, of the main drain he was met by Deputy Commissioner's No 1550 of 15-12-03 (copy enclosed with copies of this office No. 6907 of 31-12-03, Range Officer's reply No. 12 of 5-1-04, & this office No. 146 of 8-1-04 thereon). The references quoted explain how matters stand

IV. Since the damage of February 1901 there have been some very heavy falls of rain, but, Cauvery at any rate, the completion of work, so far as it has been done, has materially facilitated the run off of water. But it is

clear that things will not be in a satisfactory state until the main Dam work has been completed

V The Estimate for completion of this main Dam has been prepared & undersigned would propose that the work be finally pushed off now that an amount of Rs 20,000 has been allotted for dealing with the drainage of Bangalore city (paper) This main Dam is one of, if not the most pressing item

Col J. J. Whiteley
Supt Engr E. Circle

Seven Copies

M D W Hutchens

Chief Engineer & Secretary

44

G.R S 28]

DR II 6268

File No 267-94
Serial No 4

Diary No of letter replied to 624

Proceedings of the Government of His Highness the Maharaja of Mysore

GENERAL AND REVENUE SECRETARIAT
(Rural.)

, the 3rd August 1904

Date of issue 13/8/04

Signed by Mr H. Ramaya

READ —

Letter No 280 dated the 27th May 1904 from the President of the Municipal Commission Bangalore City, submitting for information and orders of the Government, a copy of the

ORDER THEREON —No

Bangalore Principal Munsiff's judgment in suit No 1900 of 1900-01 (Muthya Ramaya Char versus Municipality) and stating that, in the circumstances represented, the Public Works Department is solely responsible

SUBJECT

Requests the Chief Engineer to put in hand the work of completing the main drain of the Bangalore City pending the submission by him of the estimate for the work in due course

for the mishap complained of by Annayacharu and that accordingly the compensation awarded to him by the Court plus the Court costs has to be debited to the P.W. Department

2) Chief Engineer's letter No. 4375 dated the 26th July 1904 stating that he agrees with Mr. Whiteley that, until the main drain is fully completed, there may be occasion for complaints, that necessary precautions to divert the storm waters from damaging the houses in Cuddalore have been taken by his Department, that the amount due vide Rs. 263-1-4 has been remitted to the Executive Engineer and that the estimate for completing the main drain said to have been prepared by the Superintending Engineer's office submitted to Govt. when

G.R.S 27]

GENERAL AND REVENUE SECRETARIAT

(Continuation Sheet draft form.)

received

Encl 1 telegram dated 5/8/04

Orders thereon Re 1306-8 of 27257-96 / 13/8/04

The Chief Engineer is requested to have the work of Completing the main drain taken in hand as early as possible out of the lakh of rupees granted to the City Municipality this year on account of Special works and to submit the estimate early for formal sanctioned early and the work begun as soon as completion

4.8.1904

5/8/04

8 AUG 1904

Secy 4/8/04

Secy 3/8

Go.

The President, Munl Commrs Bangalore City, returning the Copy of the judgment & Chief Engineers of Mysore & Coorg Bks

Engineering Asst Bfl 10/8

Comptroller 12/8